IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2844/2001

RAMCHANDRA
Vs.
THE RESIDENTS OF VILLAGE BUDADEET & ORS.

DATE: 06.12.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

None present for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.
Mr. Mahendra Singh and
Mr. Gopal Sharma for the respondent No.1.

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The petitioner was in possession of the 15x56 Sqft. of land situated in village Budadeet, Tehsil Digod, District Kota. The said land was allotted to the petitioner by the Gram Panchayat, Budadeet on 21.03.89 by regularising the possession and no objection certificate was also issued by the Administrator of the Panchayat Samiti, Sultanpur to the petitioner on 09.11.92 for raising construction over the land.

The respondent No.1, the residents of village Budadeet through Ram Swaroop @ Rajesh Kumar filed a complaint against the petitioner before Gram Panchayat, Budadeet alleging that the petitioner was constructing the residential house over the public land by

encroaching over it. A notice was served upon the petitioner by the Gram Panchayat, Budadeet and the same was replied by the petitioner. The complaint filed by the respondent No.1 was came to be decided by the Gram Panchayat, Budadeet vide order dated 25.07.95 and the petitioner was stopped from raising construction work alleging that the petitioner failed to complete the construction work within two years from the sanction accorded by the Gram Panchayat and the 'Patta' granted in favour of the petitioner was also cancelled.

Feeling aggrieved with the aforesaid order dated 25.07.95 passed by the Gram Panchayat, the petitioner preferred an appeal before the respondent No.3, the Panchayat Samiti, Sultanpur and the same was dismissed by the Panchayat Samiti vide order dated 28.06.96 upholding the order passed by the Gram Panchayat, Budadeet dated 25.07.95.

Against the order dated 25.07.95 passed by the Gram Panchayat, Budadeet and the order dated 28.06.96 passed by the Panchayat Samiti, Sultanpur, the petitioner preferred a revision before the Additional Collector & Additional District Magistrate, Kota under the provisions of Section 97 of the Rajasthan Panchayati Raj Act, 1994. The aforesaid revision was partly allowed by the Additional Collector vide

judgment dated 13.12.2000 holding the 'Patta' granted by the Gram Panchayat valid, but the petitioner was not allowed to raise construction.

Being aggrieved and dissatisfied with the orders dated 25.07.95, 28.06.96 and 13.12.2000 passed by the Gram Panchayat, Budadeet, Panchayat Samiti, Sultanpur and Additional Collector & Additional District Magistrate, Kota respectively, the petitioner has preferred this writ petition on the ground that the provisions of the Rajasthan Panchayat Act, 1953 as well as the Rajasthan Panchayati Raj Act, 1994 and the Rules framed thereunder do not stipulate or contain any provision casting legal obligation upon the petitioner to raise and complete the construction over the allotted land within the period of two years from the date of allotment of 'Patta'. Therefore, the findings of the authorities below are per se illegal and contrary to the provisions of the Act and Rules.

Per contra, in the reply submitted on behalf of respondent No.3, the Panchayat Samiti, Sultanpur, it has been contended that the Additional Collector has rightly restrained the petitioner from raising construction over the land which was allotted to the petitioner as the petitioner failed to complete the construction work within two years from the date of

allotment of land.

It is also averred that the petitioner has erroneously preferred this writ petition as there is no ground to challenge the action of the respondents and the facts narrated in the reply clearly show that the petitioner has preferred the instant writ petition which has no substance and merit.

On behalf of respondent No.1, the residents of village Budadeet, learned counsel Mr. Mahendra Singh has strongly averred that the Additional Collector has seriously erred in holding that the 'Patta' which was issued without signature of the Sarpanch, is valid.

Considered the averments made in the writ petition, heard learned counsel for the respondent No.1 as well learned Dy. Govt. Advocate and have also carefully perused the documents annexed with the writ petition.

As submitted on behalf of the respondent No.3 that similarly issued 'Pattas' by the Gram Panchayat has been cancelled by the Collector and the Additional Collector has wrongly arrived at a conclusion that the 'Patta' issued in favour of the petitioner is just and valid even it does not contain signature of the Sarpanch.

Considering the rival submissions and the averments made in the writ petition, I deem it proper to quash and set-aside the order impugned dated 13.12.2000 passed by the Additional Collector & Additional District Magistrate, Kota and remand the matter back to the Additional Collector for fresh adjudication with liberty to the parties to raise all the just and legal objections which are raised here in this writ petition as well as in the reply, before the Additional Collector.

With these observations, the writ petition stands disposed of.

(K.S. RATHORE),J.

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